

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

DIANA MEY,

Plaintiff,

v.

**Civil Action No. 5:19-CV-315
(Judge Bailey)**

**MEDGUARD ALERT, INC.,
SAFE HOME SECURITY, INC. and
LIFEWATCH INC.,**

Defendants.

**DEFENDANTS MEDGUARD, INC. AND SAFE HOME SECURITY INC.'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Come now Defendants, Medguard, Inc. ("Medguard") and Safe Home Security, Inc. ("Safe Home") (collectively "Defendants"), by and through their undersigned counsel, and respectfully move pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss the claims filed against them by Plaintiff Diana Mey because she has failed to state a claim upon which relief can be granted. As explained for fully in Defendants' Memorandum of Law in Support of Their Motion to Dismiss, which is incorporated herein by reference, Plaintiff's claims under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §§ 227(b) and (c) fail as a matter of law. Plaintiff offers only insufficient conclusory allegations that Medguard and Safe Home were responsible for phone calls to the Plaintiff. Additionally, Plaintiff's allegations that Medguard, Safe Home, and co-defendant Lifewatch, Inc. operate as a common enterprise is devoid of any factual support. Accordingly, for

these reasons and those set forth more fully in the accompanying Memorandum in Support, Medguard and Safe Home respectfully ask the Court to DISMISS Plaintiff's claims.

Medguard, Inc. and Safe Home Security, Inc.

By Counsel

/s/ Carrie Goodwin Fenwick
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CERTIFICATE OF SERVICE

I, Carrie Goodwin Fenwick, hereby certify that on this the 13th day of January, 2020, that I served a true copy of Defendants Medguard, Inc. and Safe Home Security, Inc.'s Motion to Dismiss Plaintiff's Complaint by electronic means (CM/ECF) on:

Andrew C. Robey, Esquire
Ryan M. Donovan, Esquire
HISSAM FORMAN DONOVAN RITCHIE PLLC
P.O. Box 3983
Charleston, WV 25339

/s/ Carrie Goodwin Fenwick